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Court of Appeals
Division III
State of Washington
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No. 359174-III

COURT OF APPEALS DIVISION III
OF THE STATE OF WASHINGTON

State of Washington,
Respondent

v.

Antonio Torres, Appellant

Consolidated with 359212-III

State of Washington,
Respondent

v.

Reed A. Alefteras,
Appellant

Appeal from the Superior Court of Spokane County

REPLY BRIEF OF APPELLANT

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Appellant, Reed Alefteras by and through his attorney of record, Douglas D. Phelps, submits this reply brief in response to the brief submitted by the state. By this reply brief, no attempt is made to set forth a response to each of respondents contentions, most of which when fully covered by the opening brief. Only these points requiring additional comment will be raised to assist this court in resolving pertinent issues.

I. SUBSTANTIVE FACTS

The state in the response brief mischaracterizes the testimony at trial. Mr. Carrow testified as the manager of the convenience/ gas station (RP213) Exhibit 14 the video of the gas station was admitted. (RP216). Exhibits 15, 16, and 18 were receipts and then there was exhibit P.19 which was also a receipt. Exhibit P.19 was for energy drinks those drinks were purchased by one man (RP224). Later another man in a blue shirt goes in and purchases cigarettes signing two receipts (RP224). The receipt for the energy drinks were not purchased by the man in the blue shirt (RP225). The energy drinks were purchased with a different debit card because the numbers do not match (RP226). Exhibit 19 was produced only to show a purchase by a person in the same group of people (RP225-226).

Ms. Fuchs reviewed the photos from the gas station videos and she identifies Reed Alefteras in the camo-type shorts and a white hat (RP281-282).

Mr. Dempsey the owner of the stolen debit card testified he reported his card stolen (RP195). There were two charges for a total of thirty-five dollars and they were on his credit cards shown in exhibits 20 and 21 (RP195-196). These two charges were on his credit card (RP196). It is important to note that Exhibit P-19 was the receipt for the energy drinks purchased by another man with a debit card with another number (RP225-226).

Alex Lacefield testified that he did not recognize the guy in the camouflaged shorts and he did not look familiar at all (RP151). Sean Dempsey testified that he was pretty drunk (RP192). Sharayah Holland testified that she was not positive about the man in camo Exhibit 18 (RP251).

Deputy Thieschafer testified there were three receipts for items purchased and two receipts were for cigarettes on one card (RP3-29-2018 Pg. 329). The value of the cigarettes was \$70.00 and that was on the stolen card (RP 1-24-2018, P.330). Another card was used by Reed Alefteras who bought two energy drinks on a card not reported stolen (RP 1-24-2018, P. 330). There was no indication that the card used by Mr. Alefteras was stolen and it was used to purchase two energy drinks (RP 1-24-2018, P. 331).

In the states response brief on Pg. 5, the state confuses the two purchases of cigarettes on the stolen card as testified by Deputy Thieschafer (RP329-330). The state then mischaracterized the energy drink purchase made on Mr. Alefteras card as a purchase made on the stolen credit card (P.5 States Response Brief). A

review of the transcripts as noted above demonstrates Mr. Alefteras did not use the stolen debit card. (RP225-226 & 329-331).

II. ARGUMENT

The evidence in this case merely proves that Mr. Alefteras was present at the gas station. Mr. Alefteras used his own credit card to purchase the two energy drinks (RP330-331). The stolen credit card was used by the man in the blue shirt (RP224). The state in this case failed to demonstrate specific or general knowledge of the crime of first degree robbery or any evidence he solicited, aided, or agreed with the co-defendants. State v. Gladstone, 78 Wn 2d 306, 474 P. 2d 274 (1970). In order to be liable as an accomplice, a defendant must not merely be present “but must knowingly aid in commission of the specific crime charged.” State v. Brown, 147 Wn 2d 330, 338, 58P.3D 889 (2002), see also State v. Trout, 125 Wn App 403, 410, 105 P.3D 69 (2005) Stating “it is also clear now that the culpability of an accomplice cannot extend beyond the crimes the accomplice actually has knowledge.” State v. Cronin, 142 Wn 2d 568, 578, 14 P. 3d 752 (2000); State v. Roberts, 142 Wn 2d 471, 510-513, 14 P. 3d 713 (2000).

Here Mr. Alefteras used his card to purchase energy drinks (RP224-226). Deputy Thieschafer testified there were two receipts for cigarettes on one card (RP 3-29-2018, P.329). The value of the cigarettes was seventy dollars and they were on the stolen card (RP 1-24-2018, P.330). The other card was used by Reed

Alefteras who bought two energy drinks on a card **not** reported stolen (RP 1-24-2018, P.330). There was no indication the card used to purchase the energy drinks was stolen and it was used by Mr. Alefteras (RP 1-24-2018, P. 331). Mr. Alefteras was the man in the white hat wearing the camouflaged shorts (RP281-282). It is important to note that at no time was Reed Alefteras wearing camo shorts and a white hat implicated in the robbery (see transcript of trial generally).

III. CONCLUSION

As Mr. Reed Alefteras was the man in the white hat and cameo pants and his purchase of energy drinks was on his card. Where no witness testifies to his participation in the robbery. The charges against Mr. Reed Alefteras should justifiably be dismissed due to insufficient evidence.

Respectfully submitted this 8 day of July, 2019



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**COURT OF APPEALS, DIVISION III
OF THE STATE OF WASHINGTON**

STATE OF WASHINGTON,

Plaintiff/Respondent,

v.

REED ALEFTERAS,

Defendant/Appellant.

Case No.: 359212
Superior Cause No. 16-1-04537-6

**DECLARATION
OF SERVICE**

I, Douglas D. Phelps, declare as follows: That I am over the age of eighteen (18) years, not a party to this action, and competent to be a witness herein. That I, as attorney of record for the Defendant/Appellant, served in the manner indicated below, an original of the Appellant's Reply Brief, on July 8, 2019, to the following in the manner indicated:

COURT OF APPEALS DIV. III
500 North Cedar
Spokane, WA 99201

Appellate Portal

I further declare that I served in the manner indicated below, a copy of the Appellant's Reply Brief on July 8, 2019, to the following in the manner indicated:

SPOKANE COUNTY PROSECUTOR
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Appellate Portal

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I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Signed at Spokane, Washington, this 8th day of July, 2019



DOUGLAS D. PHELPS, WSBA #22620
Attorney for Defendant/Appellant

PHELPS & ASSOCIATES, P.S.

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